

Exhibit 54

**SAN DIEGO CITY EMPLOYEES' RETIREMENT SYSTEM
M E M O R A N D U M**

DATE: October 29, 2004
TO: Lamont Ewell, City Manager
FROM: Lawrence B. Grissom, Retirement Administrator
SUBJECT: Presidential Retirement Benefits

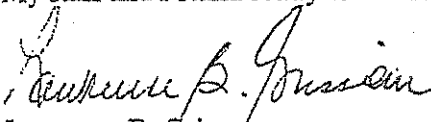
In October 2002, the City Council passed resolution #297212, regarding the retirement benefits to accrue for City employees who are serving as presidents of their respective unions. The San Diego City Employees' Retirement System has received contributions (on behalf of all of the affected individuals, except the President of Local 145) from their respective unions based upon their salary as Union President. At this time, Ron Saathoff, President of Local 145, has entered the DROP program and we have applications from Judie Italiano, President of MEA; Bill Farrar, President of POA; and Garry Collins, past President of POA, to enter the DROP program.

In light of this situation, coupled with the request of one or more of the above individuals to make the contributions to the DROP program on a tax deferred basis, we felt it prudent to refer the issue of these benefits to our outside tax counsel for review. In summary, they have indicated that SDCERS should not have accepted contributions from any union on behalf of its president, because a union does not meet the tests specified by various Federal agencies as a governmental employer.

Accordingly, tax counsel has advised us that we should refund all such contributions to the respective unions. It is their advice that not to do so, to continue to accept contributions from that source, or to pay benefits based upon contributions thus received, would endanger the tax qualified status of the plan. In this situation, we have no option other than to follow the advice of tax counsel.

My staff and I have met with appropriate members of your staff, Auditor's staff, and the City Attorney to discuss the situation in detail. It is our understanding that it is the intent to establish benefits for the Union Presidents within the spirit of the original resolution. Realizing that this may well take some time to accomplish, we will not initiate the refund of contributions until November 15, 2004, at the earliest. We hope this will give you satisfactory time to determine what course of action you wish to take.

My staff and I stand ready to assist in any way we can.


Lawrence B. Grissom

cc: Les Girard ✓

Exhibit 55

**ATTORNEY TO CLIENT
CORRESPONDENCE**

FOR CONFIDENTIAL USE ONLY

**CITY OF SAN DIEGO
MEMORANDUM**

**7/16/02
ITEM #3**

DATE: June 13, 2002

TO: Honorable Mayor and City Council

FROM: Cathy Lexin, Human Resources Director
Elmer Heap, Head Deputy City Attorney

SUBJECT: Police Officer's Association - Union President

BACKGROUND

During the recently completed labor negotiations, the issue of Union President's retirement benefit was discussed in conjunction with the issue of granting a paid leave of absence for Union Presidents. As you may recall, two of the four Union Presidents, Bill Farrar of POA and Judie Italiano of MEA, have been on leave without pay for two and fourteen years respectively. Both Mr. Farrar and Ms. Italiano have been making contributions to the retirement system based on the salary their respective Unions have been paying them. While the City maintained its position that it never condoned this arrangement, it was clearly acquiesced to by the City Retirement Office. Ron Saathoff, President of Local 145, had requested a similar arrangement approximately one year ago, and that matter became a part of these negotiations as well. As a condition of reaching agreement on successor MOU's, the Council approved the Management Team's recommendation to allow the Union-paid salary (not to exceed the salary of the Labor Relations Manager as a cap) as the basis for retirement benefit calculations.

Since the POA did not reach agreement on a successor MOU, this offer was not extended to Mr. Farrar, the current POA President. Mr. Farrar contacted the Retirement Administrator, Larry Grissom, regarding the processing of his Deferred Retirement Option Plan (DROP) application, and specifically asked whether his Union salary, upon which his retirement contributions have been based, would be used in calculating his retirement/DROP benefit. Mr. Grissom advised Mr. Farrar that based on conversations with City management, Retirement could not use a Union-established salary in calculating his retirement benefit.

Page 2

Honorable Mayor and City Council

June 13, 2002

DISCUSSION

Both Mr. Farrar and his attorney, Dick Castle, have contacted the City Manager's Office asserting that this matter, from their perspective, was never included as part of meet and confer, but rather is a separate and individual issue for Mr. Farrar. Mr. Farrar is aware that the City has agreed to honor the Union paid salary for both MEA and Local 145 Presidents (who have reached agreements on successor MOU's), and will likely assert he is being retaliated against due to the fact POA rejected the City's final offer.

RECOMMENDATION

Given the facts as discussed above, if the City denies Mr. Farrar's request of being treated the same as MEA President and he litigates the issue, there is some legal risk of the City being found liable for retaliation. Therefore, it is recommended that Mr. Farrar be treated the same as the MEA President for purposes of calculating his retirement benefit by having Retirement calculate his benefit based on the higher Union salary. In the alternative, the City could deny Mr. Farrar's contention that he is entitled to a retirement benefit based on his Union salary. In that event, he would be entitled to a refund of the difference between the amount he paid to Retirement based on his Union salary and the amount he should have paid based on his salary if he was paid by the City for his classification.

CLOSED SESSION REPORT [X] CITY OF SAN DIEGO [] OTHER (See below)

TITLE Labor negotiations - Meet and Confer
retirement matters (HDCA HEAP)

NOT A PUBLIC RECORD

until the information in this box is completed,
signed by an authorized representative of the
City Attorney's Office and stamped in the space below

DATE OF CLOSED SESSION: 7/16, 2002

☐ REAL PROPERTY NEGOTIATIONS G.C. § 54956.8
☐ Ongoing/Status Report

Date Litigation Concluded: _____, 200

☐ Final Approval of Agreement (D)

By: _____

Substance of Agreement: _____

☐ Final approval dependent on other party

Title: _____

☐ LITIGATION G.C. § 54956.9

(STAMP HERE)

☐ (a) Pending ☐ (b)(1) Significant Exposure ☐ (b)(2) Authorizing Session ☐ (c) Initiating

☐ Defend Litigation (D)

☐ Status Report

☐ Seek Appellate Review (D)

☐ Refrain from Seeking Appellate Review (D)

☐ Amicus Participation

☐ Other (see below)

☐ Settlement Offer To Be Conveyed

☐ Acceptance of Signed Settlement Offer (D)

☐ Initiate Litigation or Intervene (D)

☐ Contingent Acceptance of Signed Offer

☐ Non-Disclosure of Litigation Recommended (check if yes): ☐ See Report

☐ Interfere with service of process ☐ Impair ability to settle

☐ CLAIMS DISPOSITION G.C. § 54956.95

☐ Offer Made

☐ Offer Accepted

☐ See Report

☐ DECISION ON EMPLOYMENT STATUS G.C. § 54957

☐ Appoint (D)

☐ Employ (D)

☐ Accept Resignation (D)

☐ Discipline (D)

☐ Dismissal or Nonrenewal (disclose after exhaustion of administrative remedies) ☐ Performance Evaluation

Title: _____

Change in Compensation: _____

[X] LABOR NEGOTIATIONS G.C. § 54957.6

☐ Ongoing/Status Report

☐ Final Approval of Agreement (D) Other Party to Negotiation: _____

Item Approved: _____

ATTENDEES:

☐ City Mgr [X] Asst City Mgr ☐ Sr Dep City Mgr (Loveland)

[X] City Atty [X] Exec Asst City Atty [X] Asst City Atty (Noone)

[X] City Auditor

[X] Other Pat Frazier, Frank Devaney, Mike Rivo, Dan Kelley

☐ PUBLIC SECURITY THREAT G.C. § 54957

Rich Snapper, Terri Webster

[X] VOTE

☐ NO VOTE NECESSARY

COMMENTS: 1) Give POA president same benefits as MEA president.

Name	1	2	1	2	Absent
	Yea	No	Yea	No	
District 1	X	X			
District 2 S2	X	X			
District 3 S1	X	X			
District 4 M2	X	X			
District 5	X	X			
District 6	X	X			
District 7 M1	X	X			
District 8	X	X			
Mayor	X	X			
Voting Tally	9	9	0	0	0

2) Keep personnel analyst benefit, but hold further increases FY04 and FY05 to

allow catch up by other classes. Manager to monitor, and unusual raises to be

called to Council's attention, note differences in bargaining unit treatment.

3) Prepare written statement, waive confidentiality 9-0-0

APPROVED: _____

NOTE: (D) DISCLOSE FOLLOWING CLOSED SESSION

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Exhibit 56

Article 4: City Employees' Retirement System

Division 2: General Member Contributions

*("Authority and Effective Date" incorp. 1-22-1952
by O-5046 N.S. contained in O-10792 O.S. adopted
11-29-1926; repealed 10-25-1962 by O-8744 N.S.)
("Contribution of Members" added 10-25-1962 by O-8744 N.S.)
(Retitled to "Contribution of General Members"
on 12-8-1976 by O-11964 N.S.)
(Retitled to "General Member Contributions"
on 11-18-2002 by O-19121 N.S.)*

§24.0201 Normal Rate of Contribution

For General Members, the Board shall provide:

- (a) The normal rate of contribution for a General Member is based upon the Member's age at his or her birthday nearest to the date the Member joined the Retirement System.
- (b) A Member who is serving as the duly elected president of a recognized employee labor organization may continue to participate in the Retirement System, consistent with the governing Memorandum of Understanding between the City and the Member's employee organization.
(Retitled from "Contribution of General Members" and amended 12-18-2002 by O-19121 N.S.)

§24.0202 Adoption of General Member Contributions Rates

The Board, based upon the advice of the Actuary, shall periodically adopt the rate of contribution of each General Member according to age at the time of entry into the Retirement System, said rates to be contained in the operating Tables furnished to the Board by the System's Actuary.
(Amended 3-31-1997 by O-18392 N.S.)

§24.0203 Maximum and Minimum Rates for General Members

The normal rate of contribution established for age 57 is the rate for any member other than a safety member who has attained a greater age before entrance into the Retirement System, and that established for age 20 is the rate for any member who enters the Retirement System at a lesser age.
(Amended 3-31-1997 by O-18392 N.S.)

Exhibit 57

Article 4: City Employees' Retirement System

Division 3: Safety Members Contributions

*("Membership" incorp. 1-22-1952 by O-5046 N.S.,
contained in O-10792 O.S. adopted 11-29-1926;
repealed 10-25-1962 by O-8744 N.S.)
("Contributions of Safety Members"
added 10-25-1962 by O-8744 N.S.)
(Retitled to "Safety Members Contributions
on 11-18-2002 by O-19121 N.S.)*

§24.0301 Normal Rate of Contributions

For Safety Members, the Board shall provide:

- (a) The normal rate of contribution for a Safety Member is based upon the Member's age at his or her birthday nearest to the date the Member joined the Retirement System.
- (b) A Member who is serving as the duly elected president of a recognized employee labor organization may continue to participate in the Retirement System, consistent with the governing Memorandum of Understanding between the City and the Member's employee organization.

(Retitled from "Contribution of Safety Members" and amended 11-18-2002 by O-19121 N.S.)

§24.0302 Adoption Safety Member Contribution Rates

The Board, based upon the advice of the Actuary, shall periodically adopt the rate of contribution of each Safety Member according to age at the time of entry into the Retirement System, said rates to be contained in the Operating Tables furnished to the Board by the System's Actuary.

(Amended 3-31-1997 by O-18392 N.S.)

§24.0303 Maximum and Minimum Rates for Safety Members

The normal rate of contribution established for age 49 is the rate for any safety member who has attained a greater age before entrance into the Retirement System, and that established for age 20 is the rate for any safety member who enters the Retirement System at a lesser age.

("Maximum and Minimum Rates for Safety Members" added 12-8-1976 by O-11964 N.S.)

Exhibit 58

2002-2005



MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING was made and entered into on July 1, 2002, and shall expire and otherwise be fully terminated at 12:00 midnight on June 30, 2005.

By and Between

The City of San Diego

And

San Diego Municipal
Employees' Association

ARTICLE 15

Presidential Leave

The parties agree to a Presidential Leave Program for the President of MEA with the following elements:

1. The President will remain a full-time City employee receiving a salary equal to the salary the President is receiving at the time he or she takes office. This amount will reflect the base pay the President receives as calculated for retirement purposes and will not include any add-ons that are not part of the retirement calculation. During Presidential Leave, the President will receive raises commensurate to the raises of employees in his or her classification.
2. The President will maintain all the rights and benefits of a City employee. During normal work hours the President shall be subject to all applicable provisions of law, including all the policies and procedures of the City, all terms and conditions contained in this Memorandum of Understanding, and the affidavit of adherence referenced in paragraph 7 below. Normal work hours means 8:00 a.m. to 5:00 p.m. Monday through Friday, or an equivalent schedule approved in advance by the City Manager.
3. The President will be covered by the City's Workers' Compensation Plan for any injuries incurred while the President is performing representational activities during normal work hours as defined in paragraph 2 above. Worker's compensation benefits will not cover travel time to and from the President's home to his or her primary workplace, or to and from social activities from any location, but will cover travel time to or from representational meetings during normal work hours.
4. MEA will indemnify, defend, and hold harmless the City, and its employees and agents, for any liabilities, including costs and attorneys' fees, resulting from any conduct by the President in violation of any federal, state, or local law, or any City policy or procedure, including but not limited to Council Policies, Administrative Regulations, Personnel Regulations, Administrative Manuals, or Department Directives, Policies and Procedures.
5. MEA will indemnify, defend, and hold harmless the City, and its employees and agents, for any liabilities resulting from the City's not withholding employment taxes pursuant to the Federal Insurance Contributions Act (FICA) from the President's wages, including but not limited to the obligation to pay those employment taxes determined to be due (both the employee and City portions), interest on the late payment of those taxes, penalties for failure to timely file, pay, withhold and remit the taxes, plus costs and attorneys' fees.
6. An employee on approved Presidential Leave will submit his/her bi-weekly time card in a timely manner to the Labor Relations Manager or his/her designee for authorization signature. The bi-weekly time card will then be forwarded to the Manager's Payroll Specialist for processing and transmission to Personnel for review and the Auditor and Comptroller for payment.

7. The Union President may enter Presidential Leave by providing a notice of such election to the City Manager/Labor Relations Office and executing an affidavit of adherence to the provisions of Presidential Leave outlined above.

ARTICLE 16

Rest Periods

- A. The City of San Diego and MEA jointly endorse the practice of progressive management which recognizes that regular, authorized rest periods are beneficial both to employees personally and to the productivity of the organization.
- B. Subject to work assignments and departmental requirements, department heads are authorized and encouraged to allow rest periods for employees within the limits of the policy outlined below:
 1. Two 15-minute rest periods (including "travel time" if the employee leaves the work area) shall be allowed during each 8-hour workday ("travel time" means pedestrian travel or travel in the employee's private vehicle). Employees working less than an eight-hour work day shall also be given rest periods near the end of each consecutive two hours worked, including overtime, except in situations where public safety, public health or emergencies exist.
 2. Subject to work assignments and department requirements, a rest period or a meal break should be allowed near the end of each two-hour period of work including overtime.
 3. Since the purpose of granting the privilege of rest periods is to give relief from mental and/or physical fatigue, and consequently, to improve productivity, the following practices shall not be allowed:
 - a. Combining two or more rest periods into one rest period;
 - b. "Saving" rest period time to justify extended lunch hours or shortened workdays;
 - c. Accumulating rest period time from day to day;
 - d. Applying rest period time to compensatory or other time off, or in the considerations or computations concerned with overtime compensation.

IN WITNESS WHEREOF, the undersigned agree to submit this Memorandum of Understanding effective July 1, 2002 - June 30, 2005, to the appropriate bodies.

Date: May 14, 2002

SAN DIEGO MUNICIPAL EMPLOYEES' ASSOCIATION

Judith M. Italiano
Ann M. Smith
R. B. Swan
Mark B. Allen
Jeff B.
W. Michael G. H.
Chung Chie Ma
Robert J. Jones
Melody D. Regete
Lynne L. French
Gregory Ward
John P. Odor
and
Carla Mitchell
John F. Casper
John Lundy-Boyd
W. H. H.
David M. H.
Mike H. H.
Mark P. H.
Larry H.
Jim Carter
Lois E. H.

CITY OF SAN DIEGO

Cathy Lepi
Ch. E. Keel
Stanley M. Griffith
W. S. M.
Theresa A. Marshall
Michael R.
Pat L.
Charles B.
John H.
Al. B.

MISSION STATEMENT

We pledge to continually deliver accurate and timely benefits through prudent administration and safeguarding of the San Diego City Employees' Retirement System, while ensuring the Fund's maximum safety, integrity and growth.

SDCERS RETIREMENT BOARD MINUTES
THURSDAY, JULY 11, 2002

The Retirement Board of Administration held a Special meeting in the System's Boardroom. Location: 401 "B" Street, Suite 400, San Diego, CA 92101. Fred Pierce called the meeting to order at 9:30 a.m.

IN ATTENDANCE:

Trustees: Frederick Pierce, Chair; John Casey, David Crow, Ray Garnica, Cathy Lexin, Mary Vattimo, Tom Rhodes, Ron Saathoff, Diann Shipione, John Torres, Terri Webster, Richard Vortmann, Sharon Wilkinson

Staff: Lawrence Grissom, Lori Chapin, Paul Barnett, Roxanne Parks, Sally Zumalt, Delia Lencioni, Dawne Clark, Jean Struiksma, Merlita Hilario

Public: Robert Blum, Constance Hiatt, Rick Roeder, Bruce Herring, Charles Feland, Michael Aguirre, Ann Smith, Judy Folsom, Judy Italiano, Stan Elmore, Garry Collins, Mary Bush, Bud Simpson, Stan Elmore, Pamela Hightower, Conny Jamison, John Swanson, Nancy Acevedo, Ed Lehman, Jorge Montegue, Pamela Hightower, Judie Italiano, Charles Feland & numerous other City employees.

I. DISPENSE WITH THE READING AND APPROVAL OF THE SPECIAL MAY 29, 2002 EARNINGS MINUTES

MOTION TO DISPENSE WITH THE READING AND APPROVE THE 05/29/02 MINUTES:

D. CROW

SECOND:

T. RHODES

DISCUSSION:

Ms. Shipione asked that the last paragraph of Page 32 be amended to state that she had asked for clarification about the Board's authority; and, that the second paragraph on Page 33 be deleted.

CALL FOR THE QUESTION ON THE MINUTES AS AMENDED.

BOARD:

UNANIMOUS

MOTION TO APPROVE PASSED UNANIMOUSLY.

II. REPORT ON ACTION TAKEN AT THE 8:30 CLOSED SESSION MEETING

Mr. Pierce reported that the Board met in closed session at 8:30 a.m. regarding one matter of pending litigation.

Once the Board takes action, Mr. Herring said Management would meet with the Mayor and City Council.

Before voting on this, Mr. Torres asked if Mr. Roeder or Mr. Blum had changed their opinions.

Mr. Blum said it is somewhat hard to provide an "on the fly" opinion. However, he is much more comfortable that the Board would not be at a material risk by adopting the substitute motion. Absent having all of the facts and the language in front of him, he's not sure how far he could go with this opinion.

Ms. Hiatt said in reviewing the numbers, a faster repayment schedule is better because the incremental earnings paid to the fund would reduce the Board's risk down the road. She asked when the 1.0% rate increase would become effective. Under the 97 MP, Mr. Pierce said it becomes effective 07/01/04.

CALL FOR THE QUESTION ON THE SUBSTITUTE MOTION TO MODIFY THE 97 MP: 1) TO ALLOW THE CITY'S REPAYMENT SCHEDULE TO BE THE DIFFERENCE BETWEEN THE RATE AT THAT TIME AND THE ACTUARIAL PUC RATE IF THE 82.3% TRIGGER IS HIT; 2) THAT THIS AMOUNT WOULD BE PHASED IN INCREMENTALLY ON AN ANNUAL BASIS BETWEEN THAT POINT AND 2009; 3) THAT THIS BE BASED ON THE CURRENT ACTUARIAL PROJECTIONS WITH THE CITY TO INCREASE ITS PAYMENT 1.0% PER YEAR; 4) THAT THE CITY WOULD REACH THE PUC RATE IN 2009 AS INCLUDED IN THE 97 MP SUNSENT LANGUAGE; AND, 5) TO FUND \$25 MILLION FOR PURPOSES OF PAYING RETIREE HEALTH CARE BENEFITS. ADDITIONALLY, THIS MOTION DOES NOT INCLUDE LOWERING THE FUNDING FLOOR FROM 82.3% AND IS CONTINGENT UPON A WRITTEN AGREEMENT BETWEEN THE CITY AND RETIREMENT BOARD.

**BOARD: 8 IN FAVOR: CASEY, VATTIMO, PIERCE, SAATHOFF,
WILKINSON, TORRES, WEBSTER, LEXIN
2 OPPOSED: RHODES, CROW
1 ABSTAINED: GARNICA**

MOTION PASSED 8 TO 3.

(Mr. Vortmann and Ms. Shipione had departed the meeting prior to the vote.)

**IV. NEXT MEETING: FRIDAY, JULY 19, 2002 - 12:30 PM
401 "B" STREET, SUITE 400
SAN DIEGO, CA 92101**

SAN DIEGO CITY EMPLOYEES RETIREMENT SYSTEM
TRUSTEES – 2002

1. **John Casey** (Elected by General Members)
2. **David Crow** (Elected by Retirees)
-
3. **Ray Garnica** (Appointed by City Council)
4. **Cathy Lexin** (Ex-Officio, City Manager)
5. **Frederick Pierce IV** (Appointed by City Council)
6. **Thomas Rhodes** (Elected by Police / Safety)
7. **Ronald Saathoff** (Elected by Fire / Safety)
8. **Diann Shipione** (Appointed by City Council)
9. **John Torres** (Elected by General Members)
10. **Mary Vattimo** (Ex-Officio, City Treasurer)
11. **Richard Vortmann** (Appointed by City Council)
12. **Terri Webster** (Ex-Officio, City Auditor)
13. **Sharon Wilkinson** (Elected by General Members)

Exhibit 59

2002-2005



MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING made
and entered into this 1st day of July, 2002.

By and Between

The City of San Diego

And

Local 145, International
Association of Fire Fighters,
AFL-CIO

ARTICLE 47

Presidential Leave


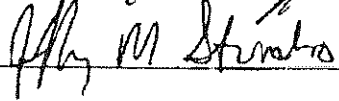
The parties agree to a Presidential Leave Program for the President of Local 145 with the following elements:

1. The President will remain a full-time City employee receiving a salary equal to the salary the President is receiving at the time he or she takes office. This amount will reflect the base pay the President receives as calculated for retirement purposes and will not include any add-ons that are not part of the retirement calculation. During Presidential Leave, the President will receive raises commensurate to the raises of employees in his or her classification.
2. The President will maintain all the rights and benefits of a City employee. During normal work hours the President shall be subject to all applicable provisions of law, including all the policies and procedures of the City, all terms and conditions contained in this Memorandum of Understanding, and the affidavit of adherence referenced in paragraph 7 below. Normal work hours means 8:00 a.m. to 5:00 p.m. Monday through Friday, or an equivalent schedule approved in advance by the City Manager.
3. The President will be covered by the City's Workers' Compensation Plan for any injuries incurred while the President is performing representational activities during normal work hours as defined in paragraph 2 above. Worker's compensation benefits will not cover travel time to and from the President's home to his or her primary workplace, or to and from social activities from any location, but will cover travel time to or from representational meetings during normal work hours.
4. Local 145 will indemnify, defend, and hold harmless the City, and its employees and agents, for any liabilities, including costs and attorneys' fees, resulting from any conduct by the President in violation of any federal, state, or local law, or any City policy or procedure, including but not limited to Council Policies, Administrative Regulations, Personnel Regulations, Administrative Manuals, or Department Directives, Policies and Procedures.
5. Local 145 will indemnify, defend, and hold harmless the City, and its employees and agents, for any liabilities resulting from the City's not withholding employment taxes pursuant to the Federal Insurance Contributions Act (FICA) from the President's wages, including but not limited to the obligation to pay those employment taxes determined to be due (both the employee and City portions), interest on the late payment of those taxes, penalties for failure to timely file, pay, withhold and remit the taxes, plus costs and attorneys' fees.
6. An employee on approved Presidential Leave will submit his/her bi-weekly time card in a timely manner to the Labor Relations Manager or his/her designee for authorization signature. The bi-weekly time card will then be forwarded to the Manager's Payroll Specialist for processing and transmission to Personnel for review and the Auditor and Comptroller for payment.
7. The Union President may enter Presidential Leave by providing a notice of such election to the City Manager/Labor Relations Office and executing an affidavit of adherence to the provisions of Presidential Leave outlined above.

IN WITNESS WHEREOF, the undersigned agree to submit this Memorandum of Understanding effective July 1, 2002 - June 30, 2005, to the appropriate bodies.

Date: October 7, 2002

SAN DIEGO CITY FIRE FIGHTERS
I.A.F.F. LOCAL 145

CITY OF SAN DIEGO

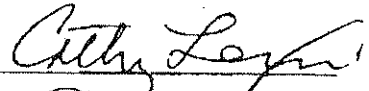
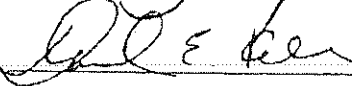
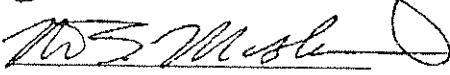


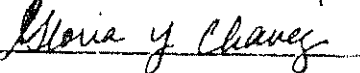
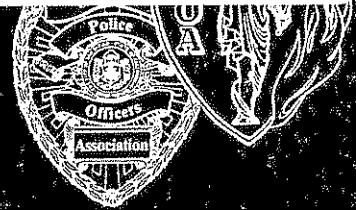







Exhibit 60



MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING made and entered into this 1st day of July, 2003.

By and Between

The City of San Diego

And

San Diego Police Officers Association

3310. Any public agency which has adopted, through action of its governing body or its official designee, any procedure which at a minimum provides to peace officers the same rights or protections as provided pursuant to this chapter shall not be subject to this chapter with regard to such a procedure.
3311. Nothing in this chapter shall in any way be construed to limit the use of any public safety agency or any public safety officer in the fulfilling of mutual aid agreements with other jurisdictions or agencies, nor shall this chapter be construed in any way to limit any jurisdictional or interagency cooperation under any circumstances where such activity is deemed necessary or desirable by the jurisdictions or the agencies involved.
3312. Notwithstanding any other provision of law, the employer of a public safety officer may not take any punitive action against an officer for wearing a pin or displaying any other item containing the American flag, unless the employer gives the officer written notice that includes all of the following:
- (a) A statement that the officer's pin or other item violates an existing rule, regulation, policy, or local agency agreement or contract regarding the wearing of a pin, or the displaying of any other item, containing the American flag.
 - (b) A citation to the specific rule, regulation, policy, or local agency agreement or contract that the pin or other item violates.
 - (c) A statement that the officer may file an appeal against the employer challenging the alleged violation pursuant to applicable grievance or appeal procedures adopted by the department or public agency that otherwise comply with existing law.

ARTICLE 65

Presidential Leave

The parties agree to a Presidential Leave Program for the President of POA with the following elements:

1. The President will remain a full-time City employee receiving a salary equal to the salary the President is receiving at the time he or she takes office. This amount will reflect the base pay the President receives as calculated for retirement purposes and will not include any add-ons that are not part of the retirement calculation. During Presidential Leave, the President will receive raises commensurate to the raises of employees in his or her classification.
2. The President will maintain all the rights and benefits of a City employee. During normal work hours the President shall be subject to all applicable provisions of law, including all the policies and procedures of the City, all terms and conditions contained in this Memorandum of Understanding, and the affidavit of adherence referenced in paragraph 7 below. Normal work hours means 8:00 a.m. to 5:00 p.m. Monday through Friday, or an equivalent schedule approved in advance by the City Manager.

3. The President will be covered by the City's Workers' Compensation Plan for any injuries incurred while the President is performing representational activities during normal work hours as defined in paragraph 2 above. Worker's compensation benefits will not cover travel time to and from the President's home to his or her primary workplace, or to and from social activities from any location, but will cover travel time to or from representational meetings during normal work hours.
4. POA will indemnify, defend, and hold harmless the City, and its employees and agents, for any liabilities, including costs and attorneys' fees, resulting from any conduct by the President in violation of any federal, state, or local law, or any City policy or procedure, including but not limited to Council Policies, Administrative Regulations, Personnel Regulations, Administrative Manuals, or Department Directives, Policies and Procedures.
5. POA will indemnify, defend, and hold harmless the City, and its employees and agents, for any liabilities resulting from the City's not withholding employment taxes pursuant to the Federal Insurance Contributions Act (FICA) from the President's wages, including but not limited to the obligation to pay those employment taxes determined to be due (both the employee and City portions), interest on the late payment of those taxes, penalties for failure to timely file, pay, withhold and remit the taxes, plus costs and attorneys' fees
6. An employee on approved Presidential Leave will submit his/her bi-weekly time card in a timely manner to the Labor Relations Manager or his/her designee for authorization signature. The bi-weekly time card will then be forwarded to the Manager's Payroll Specialist for processing and transmission to Personnel for review and the Auditor and Comptroller for payment.
7. The Union President may enter Presidential Leave by providing a notice of such election to the City Manager/Labor Relations Office and executing an affidavit of adherence to the provisions of Presidential Leave outlined above.

IN WITNESS THEREOF, the undersigned agree to submit this Memorandum of Understanding, effective July 1, 2003 – June 30, 2005, to the appropriate bodies.

Date: May 8, 2003

For the City of San Diego:

Cathy Leyva
Mr. Mishkin
ESM
Kathleen Murphy

For the Police Officers Association:

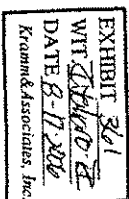
Carl Amm
Stephen G. Mayrho
James
Thomas M. Rhoads
Paul Hamer
Scott Halehoff
Tom Boud
Robert Warner on leave
Walt B. Wall

This information is available in alternative formats upon request.

Exhibit 61

HISTORY OF PENSION BENEFIT FOR ELECTED MEA PRESIDENT

Presented 3/18/05



PREPARED BY ANN M. SMITH, ESQ.

0361-0001



In 1986, the City's Labor Relations Office denied MEA's request to permit its elected President to continue participation in SDCERS while on an approved unpaid leave of absence to serve in this position.

3612

0361-0002



In late 1995/early 1996, MEA discovered that POA's President had been allowed for many years to continue participation in SDCERS while on an approved unpaid leave of absence to serve as the elected POA President. MEA immediately demanded equality of treatment for its elected President.

✓ A **2/17/89** Memo from Larry Grissom to Ed Ryan, with copy to Deputy City Attorney Jack Katz, memorializes the "Presidential Leave" agreement implemented for POA's elected President.

MEA 3613

3613

0361-0003



The San Diego Municipal Code § 24.0201 was amended on 3/31/97 by adoption of Ordinance O-18392, providing in pertinent part as follows: "3. An employee who is granted a special leave of absence without pay in order to serve as the duly elected president of a recognized employee labor organization, shall be permitted, if he or she so elects, to continue making contributions during the period of presidential leave in an amount prescribed in accordance with Section 24.1307."

3614

0361-0004



In October 1997, the Retirement Board voted *unanimously* to approve MEA's President's request that the interest charges on her purchase of service credit for the period of her approved unpaid leave of absence be waived under the circumstances.

- ✓ See 10/9/97 Letter from MEA President Judie Italiano to Keith Enerson, President of the Retirement Board.
- ✓ See 10/9/97 Memo from Larry Grissom to Retirement Board related to this waiver request in which he states, in pertinent part in the third paragraph: "In 1989...the POA was allowed to pay normal retirement contributions, both employee and employer, on behalf of its President on an ongoing basis. These contributions are based on the age at enrollment into CERS and **the salary received as President. This procedure has been in place since 1989.**"

MEA 3615

361.5

0361-0005



In accordance with its custom and practice, the Retirement Board of Administration calculated the cost for MEA's President to purchase service credit for the period of her approved unpaid leave of absence. Thereafter, that total cost (minus interest per vote of the Retirement Board) was paid in full by a plan-to-plan transfer from Ms. Italiano's old SPSP account and by additional scheduled payments each payday pursuant to Retirement System Purchase of Service Credit Payment Plans. [Note: Ms. Italiano's participation in SPSP ended when her unpaid leave of absence began.]

0361-0006



In addition, beginning in 1997, MEA transmitted contributions to the Retirement Office each payday on behalf of its elected President in an amount calculated by the Retirement Office staff based on the President's Union-paid salary – including both the "employee" and the "employer" side of the total required contribution. These contributions were paid by checks made payable to the "City Treasurer," and forwarded to the attention of the designated staff person in the Retirement Office.

- ✓ Whenever MEA's President's Union-paid salary was increased, the Retirement Office was advised and a new calculation was provided to MEA by that office as to the total contribution amount to be remitted.

[Note: MEA's President did not get the benefit of the "pick-up" whereby the City paid for a portion of the employee's contribution obligation.]

0361-0007



As of **October 1997**, MEA's leadership and MEA's President Judie Italiano understood that a retirement benefit for its elected President would be paid on the same terms and conditions available to all members of the system – meaning that a retirement benefit was being earned based on total years of creditable service – including the years served as elected MEA President for which contributions had been and were being made – and that a benefit would be calculated based on the total years of creditable service, the highest one year of compensation paid as Union President, and the formula in effect at the time of retirement. **As far as MEA's leadership and MEA's President were concerned, no further action was required to perfect this benefit commitment.**

MEA 3618

361.6

0361-0008



During the meet and confer process in **2002**, MEA's elected Negotiating Team made **no proposals** to the City which related to the pension benefit being earned by MEA's elected President.

✓ But the City's Management Team informed MEA that the City was addressing an "equity" issue related to Presidential Leave which had been raised by Fire Fighters' Union President Ron Saathoff, and that the City wanted:

- (1) to achieve uniformity in the handling of the pension benefit payable to the current Union Presidents, and
- (2) to change the way this benefit would be handled in the future for incoming Union Presidents. [See Article 15, Presidential Leave.]

□ As part of this effort to achieve "uniformity," the City proposed a "cap" on the Union-paid salary which would be eligible for consideration as "high one year of compensation." This cap was tied to the salary of the Labor Relations Manager. Although this "cap" was arguably a *new* limitation on the benefit available to MEA's President, MEA agreed.

0361-0009



3619

✓ Eventually, the City presented a draft of a Resolution related to "Incumbent Union Presidents" which was later adopted on October 21, 2002 – the same day the City Council voted by Resolution to adopt MEA's MOU which had been signed earlier that month.

✓ MEA did not know – and was never informed by Management – that any issue or concern had arisen about the delivery of the promised benefit to MEA's elected President for which regular bi-weekly contributions had been made since 1997.

- A recently-disclosed City Council Closed Session Slide #37 states that MEA President Judie Italiano "purchased past service, contributes to Retirement on Union salary, and **expects** Retirement formula = high one year on union salary." This is an accurate statement of what MEA and Ms. Italiano expected based on the above-described course of conduct in **1997**.

0361-0010



☐ MEA did not know (until recently) that any *action* had been taken by the City Council in closed session regarding the benefit promised to MEA's elected President. The recently-disclosed notes related to a City Council closed session on April 30, 2002, show that, by a vote of **9 to 0**, Council approved the Manager's recommendation to "base retirement on high 1 year union salary" for MEA's and POA's Presidents. The record reflects that, in addition to the Mayor and all Council Members, the City Auditor, several high-ranking management employees and **six** attorneys from the City Attorney's Office attended this closed session.

☐ MEA did not know that the action being taken in adopting the October 2002 Resolution was deemed "necessary" by City Management and/or City Council for any reason other than to codify the existing benefit for MEA's President and to make the Presidential Leave benefit uniform for the incumbent Union Presidents, as well as for any others who had paid into the system in reliance on the pre-existing benefit program – i.e., prior POA Presidents.

0361-0011



In February 2004, MEA's President Judie Italiano applied to enter the DROP program as an alternative means of benefit accrual for members of SDCERS. The City Auditor conducted and completed an audit of Ms. Italiano's payroll records maintained by MEA but her application has not yet been acted upon by SDCERS and remains pending.

- ✓ On inquiry to the Retirement Office Staff, MEA has been informed that there are tax issues related to the payment of the promised benefit to MEA's President which must be addressed and resolved.

3/1/12

0361-0012





SAN DIEGO MUNICIPAL EMPLOYEES ASSOCIATION
"NOBODY DOES IT BETTER"

October 9, 1997

Keith Enerson, President
Retirement Board
401 B Street, Suite 400
San Diego, CA 92101

EXHIBIT 341
WIT. William B.
DATE 8-17-2006
Kramm & Associates, Inc.

Dear President Enerson:

I respectfully submit this request for the Board's consideration and action in resolving the issue of interest owed on my own buy-back of Presidential leave without pay. I have been in a "leave without pay" status for the past eleven years while serving as MEA's President.

Prior to my taking leave for this purpose MEA made a request to the City Manager that I be allowed to continue my City benefits while on leave. The benefits referred to included contributions to the retirement system. The manager's response, based on an attorney's opinion, was that this type of arrangement could not be accommodated. Therefore, I was not allowed to continue my benefits and for many years I operated under the assumption that this option was not available to any employee organization.

Late in 1995 I was made aware of the fact that arrangements had been made for the POA President to continue retirement contributions while on Presidential leave and that this option had been made available to the POA President for quite a number of years.

Needless to say I was surprised and I immediately contacted Jack McGrory to secure the same arrangement for MEA. Taking care of this issue however, proved to be no easy task. Since most of 1996 was consumed in addressing and resolving major changes to the Retirement system. I did not wish to distract the people involved from the important work affecting all City employees. At this point, however, I would like to bring closure to this issue of personal as well as organizational interest.

I have finalized the numbers with Larry Gissom and his staff, spoken with Labor Relations about their part of this and set up provisions at MEA for making prospective contribution payments starting in October. That leaves only the "buy-back" piece of the issue.

Regrettably, I now face a substantial lump sum cost which would have been avoided had I been permitted to contribute "paycheck by paycheck", as regular employees do. City Managements' decision to

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"Member of the California Independent Public Employees Legislative Council"

341.1

MEA 3625

0341-0001



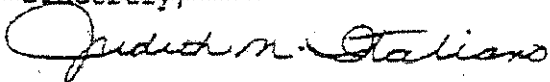
foreclose this option to me as MEA's President while allowing it for others similarly situated clearly resulted in an economic detriment to me.

While this injustice (as I see it) did not occur due to any action or inaction by the Retirement Board I am asking the Board to grant a waiver of all the interest owed on the buy-back amount merely as a matter of equity.

I respectfully request that this issue be placed on the October agenda so that I may begin repayment as quickly as possible.

I appreciate the Board's time in reviewing this request and anxiously await your response.

Sincerely,



Judith Italiano
President/General Manager

341.2

MEA 3626

0341-0002

